

1
2
3 IN THE UNITED STATES DISTRICT COURT
4 FOR THE EASTERN DISTRICT OF CALIFORNIA
5
6
7
8
9
10

11 CLARENCE BROWN,

12 Plaintiff,

13 vs.

14
15 C/O MORTON, et al.,
16

17 Defendants.
18

19 Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42
20 U.S.C. § 1983.

21 On July 3, 2008, findings and recommendations were entered, recommending that
22 this action be dismissed for failure to state a claim upon which relief could be granted. On July
23 15, 2008, the recommendation was returned with a notation that Plaintiff is deceased. Pursuant
24 to Fed. R. Civ. P. 25(a)(1), successors or representatives of a deceased party may make a motion
25 for substitution “not later than 90 days after the death is suggested upon the record” and continue
26 the action. Ninety days have expired since the court received notice of plaintiff’s death. The

1 court accepts the suggestion of death upon the record. Under Rule 25(a)(1), unless a motion for
2 substitution is made, “the action shall be dismissed as to the deceased party.” Absent such a
3 statement, this case will be dismissed on October 30, 2008.

4
5 IT IS SO ORDERED.

6 **Dated: July 31, 2008**

/s/ William M. Wunderlich
UNITED STATES MAGISTRATE JUDGE